

SLND-GUARANTOR BULLETIN

#3-03

May 1, 2003

1. Special Allowance Rates for the Quarter Ending March 31, 2003

The Treasury Department has published the average of the bond equivalent rates of the ninety-one day Treasury bills auctioned during the quarter ending March 31, 2003, as 1.17 percent. Further, the average of the bond equivalent rates of the quotes of the 3-month commercial paper rates in effect for each of the days in the quarter ending March 31 is 1.27 percent.

2. Change in Claim Filing Procedures

Effective July 1, 2003, SLND-Guarantor will no longer require lenders to submit a certified true and exact copy of the promissory note when filing a death, disability, closed school, false certification, or bankruptcy claim. Lenders need only provide the original or a true and exact copy of the promissory note.

3. Military Mobilization - NSLDS Reporting by Schools and Loan Holders

The Department of Education was asked to clarify how schools are to report military students and the impact on NSLDS. Their response follows.

Schools reporting to NSLDS on student enrollment status of those who are mobilized are instructed to report these students as withdrawn.

Lender/Loan holders (including Perkins lenders) who would be reporting loan statuses to NSLDS for these same student borrowers who withdraw due to military mobilization were required to report an 'IM' Loan Status Code to NSLDS for those borrowers who were in a grace period status when they were mobilized. Loan holders were also strongly encouraged, but not required, to use the same 'IM' status code for those borrowers who were to be kept in an in-school or in-school deferment status during their service period under the DCL guidance. It was hoped that loan holders almost universal use of the 'IM' loan status code would help avoid any confusion that might otherwise exist because of a seeming conflict between the school's enrollment status reporting of "withdrawn" and a loan holder's loan status reporting of an "in-school" or "grace" code for the same borrower. For statistical and other purposes, the use of the 'IM' status code by holders will also allow easy identification of affected borrowers in the NSLDS system.

4. Common Manual Updates

Batch 102 Common Manual policy changes include the topics of:

- Reissuing a Loan Disbursement
- Eligible Lender Definition
- Leave of Absence
- Late Delivery and Post-Withdrawal Disbursement
- Multiple Disbursement and Delayed Delivery Exemptions
- Late Delivery of Loan Proceeds by the School
- Requesting an Extension of the Repayment Period

4. Common Manual Updates (cont'd)

Changes in Unemployment Deferment Requirements

Changes to Economic Hardship Deferment Eligibility Calculation

Verbal Forbearance Agreements

New Administrative Forbearance Provisions

Forbearance Contact

Post-Withdrawal Disbursement and PLUS Loans

Correction to Bankruptcy Information

New Borrower Deferment Eligibility Updates

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will appear in the manual's next annual update in 2003. These changes will also be incorporated into the March 2003 *Integrated Common Manual*. The *Integrated Common Manual* is available on NCHELP's website at www.NCHELP.org in the e-library, and it is also available on several guarantor websites. However, some of these changes are effective before the next update is scheduled to be delivered.

Reissuing a Loan Disbursement

A school may request that a lender reissue a loan disbursement for a variety of reasons, such as when a check is lost. The *Common Manual* policy for the reissue of disbursements has been revised to state that, upon the receipt of a school's request, the lender may reissue a disbursement no later than 120 days after the earlier of the last day of the period of enrollment for which the loan is intended or the student's last date of at least half-time enrollment. For proceeds originally disbursed as a late disbursement, the lender must reissue a disbursement no later than 120 days after the date on which the original late disbursement was made.

In exceptional cases, the lender may reissue a loan disbursement more than 120 days after the last date of the student's eligible enrollment or more than 120 days after the date on which the original late disbursement was made, so that the student will not be harmed by circumstances beyond his or her control. The request for reissue under this exception should come from both the student and the school, and the lender should document the exceptional circumstances.

Affected Sections:	6.2.G
Effective Date:	Disbursements reissued by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis:	None. Coordinates with 34 CFR 668.164(g) and private letter to the Student Loan Marketing Association from the Department, dated July 15, 1994.
Policy Information:	647/Batch 102
Guarantor Comments:	None.

Eligible Lender Definition

The *Common Manual* has been revised to clarify that loans held in trust by a trustee lender are not considered part of the trustee lender's consumer credit function when determining if a lender meets the definition of an eligible lender as prescribed by federal regulations.

Affected Sections:	3.1
Effective Date:	Retroactive to the implementation of the <i>Common Manual</i> .
Basis:	§682.200(b).
Policy Information:	648/Batch 102
Guarantor Comments:	None.

Leave of Absence

The *Common Manual* has been updated to reflect revised regulations regarding leave of absence. The regulations now allow a school to grant multiple leaves of absence as long as the total number of days for all leaves does not exceed 180 days in a 12-month period. The student's request for the leave of absence must include the reason for the leave. A student enrolled in a clock-hour or nonterm credit-hour program who returns from a leave of absence is not required to complete the same coursework she or he began prior to the leave of absence.

Affected Sections: 4.5, Appendix G
Effective Date: For leaves of absence granted by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.
Basis: §668.22(d)(1)(vi-vii); §668.22(d)(3)(iii)(B).
Policy Information: 649/Batch 102
Guarantor Comments: None.

Late Delivery and Post-Withdrawal Disbursement

The *Common Manual* has been revised to delete redundant late disbursement policy language from the description of aid that could have been disbursed and to clarify that, before making a post-withdrawal disbursement of FFELP funds, the school must determine that the borrower is eligible for a late delivery under the provisions in subsection 6.3.H. If the borrower is determined eligible for a late delivery, the school must offer a post-withdrawal disbursement of FFELP funds and, if accepted, must deliver the funds to the borrower. Revised policy states that a school must make the post-withdrawal disbursement of a credit balance within 120 days of the date the school determined that the student withdrew.

Affected Sections: 4.7.A
Effective Date: Post-withdrawal disbursements made by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement the post-withdrawal determination time frame change no earlier than November 1, 2002.
Basis: §668.164(g).
Policy Information: 650/Batch 102
Guarantor Comments: None.

Multiple Disbursement and Delayed Delivery Exemptions

The *Common Manual* has been revised to eliminate references to the statutory exemptions authorized in HEA 428G(a)(3) and (b)(1). These exceptions waive, for schools with low cohort default rates, the multiple disbursement requirement for a single term loan and the 30-day delayed delivery requirement for a first-year undergraduate student who is a first-time borrower. The statutory authority for these exemptions expired on September 30, 2002. The information being deleted will be incorporated into appendix H of the manual.

Affected Sections: 5.8.D, 6.2.B, 6.3.E, 6.3.I
Effective Date: For loans certified on or after October 1, 2002.
Basis: HEA 428G(a)(3) and (b)(1); Dear Colleague Letter (DCL) GEN-02-06.
Policy Information: 651/Batch 102
Guarantor Comments: None.

Late Delivery of Loan Proceeds by the School

The *Common Manual* has been updated to reflect the regulatory changes applicable to some of the requirements for the late delivery of loan proceeds by the school, including:

1. Except in the case of a PLUS loan, the Department must have *processed* a Student Aid Report (SAR) or Institutional Student Information Record (ISIR) with an official expected family contribution (EFC) before the student became ineligible. The requirement that the school *receive* a valid SAR or ISIR prior to the date the student became ineligible is eliminated.
2. In the case of a second or subsequent disbursement, the student graduated or successfully completed the period of enrollment for which the loan was intended. In this circumstance, the school must offer the borrower the amount of Stafford or PLUS funds the student (or parent) was eligible to receive while the student was enrolled at the school.. The school may credit the student's account to pay for current and allowable charges (as currently described in subsection 6.3.E of the manual), but must pay or offer any remaining amount to the student or, in the case of a PLUS loan, to the parent.

3. The time frame in which the school may deliver the funds is extended from 90 days to 120 days from the date the school determines the student has withdrawn. If the student has not withdrawn, the school may make a late delivery of loan funds up to 120 days after the earlier of the end of the loan period or the date on which the student ceased to be enrolled at least half time.
4. On an exception basis, and with the approval of the Department, the school may make a late delivery of loan funds after the applicable 120-day period, if the reason the late delivery was not made within the 120-day period was not the fault of the student.

A comprehensive summary of all the criteria that must be met in order for the school to make a late delivery of loan proceeds is provided in subsection 6.3.H of the manual.

Affected Sections: 6.3.E, 6.3.H
Effective Date: Late delivery of FFELP loan proceeds by the school on or after July 1, 2003, unless implemented earlier by the school. Schools may implement these provisions no earlier than November 1, 2002.
Basis: §668.164(g).
Policy Information: 652/Batch 102
Guarantor Comments: None.

Requesting an Extension of the Repayment Period

The *Common Manual* has been updated to remove the requirement that the borrower request in writing an extension of the repayment period if the borrower's repayment is scheduled for less than 5 years. The borrower still must request the repayment extension but no longer needs to supply a written request.

Affected Sections: 7.6.B
Effective Date: Borrower requests received by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.209(a)(8)(iv).
Policy Information: 653/Batch 102
Guarantor Comments: None.

Changes in Unemployment Deferment Requirements

Federal regulations published in November 2002 amend the unemployment documentation requirements and the time frames for which a lender may process an unemployment deferment. Based on final rules, borrowers may provide evidence of eligibility for unemployment benefits or may certify that they are currently seeking full-time employment and making all required attempts to obtain full-time employment. Borrowers are no longer required to provide information regarding potential employers contacted during the job search or to document the employment agency with which they are registered. Borrowers must certify—in writing or in a format approved by the Department—that they are registered with an employment agency if one is available within 50 miles of their current address, and that they have made six diligent attempts in the preceding 6-month period to find full-time employment. Borrowers applying for an initial period of unemployment deferment are not required to certify that they have made attempts to obtain full-time employment.

Lenders should also note changes to the permissible unemployment deferment time frames. An initial period of unemployment deferment based on the borrower's self-certification may be back dated up to 6 months prior to the date the lender receives the necessary documentation from the borrower, and must be scheduled to end not later than 6 months after the date the lender receives required documentation. An extension to an unemployment deferment and any unemployment deferment based on the borrower's eligibility for unemployment benefits is not subject to the 6-month backdating limitation. An extension of a deferment may be granted for up to 6 months following the date the borrower provides the lender with evidence or certification of deferment eligibility.

Affected Sections: 7.10.E
Effective Date: Borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.210(h)(2)(i) and (h)(4).
Policy Information: 654/Batch 102
Guarantor Comments: None.

Changes to Economic Hardship Deferment Eligibility Calculation

Federal regulations revise the calculations to determine a borrower's eligibility for economic hardship deferment. If the borrower's loans are scheduled to be repaid in 10 years or less, the lender must use the actual repayment amount in determining the borrower's federal postsecondary education debt burden. If the borrower's loans are scheduled to be repaid in more than 10 years, the lender must use the monthly payment amounts that would have been owed on federal postsecondary education loans based on a 10-year repayment schedule. As always, lenders must count a proportional share of any payments due—or that would have been due—less frequently than monthly, and must include payments due on a defaulted loan if the borrower has made repayment arrangements satisfactory to the holder of the defaulted loan.

Affected Sections: 7.10.P
Effective Date: Borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.210(s)(6)(vii).
Policy Information: 655/Batch 102
Guarantor Comments: None.

Verbal Forbearance Agreements

New federal regulations remove the requirement that the forbearance agreement between a borrower or endorser and a lender for a discretionary forbearance be in writing. Regulations permit the lender to negotiate a verbal agreement with the borrower or endorser. If the forbearance agreement is verbal, the lender is required to send, within 30 days of that agreement, a notice to the borrower or endorser confirming the terms of the agreement. The lender must document the borrower's request for forbearance, the reason for the forbearance, and the terms of the forbearance agreement.

Affected Sections: 7.8.C, 7.9.E, 7.11.A, 7.11.B, 7.11.F, 7.11.G
Effective Date: Borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.211(b).
Policy Information: 656/Batch 102
Guarantor Comments: None.

New Administrative Forbearance Provisions

Previously, lenders were permitted to grant forbearance to a borrower or endorser who requested forbearance due to the borrower being adversely affected by a natural disaster. New federal regulations expand the lender's options to grant an administrative forbearance based solely on the lender's determination that the borrower's or endorser's ability to make payments has been adversely affected by a natural disaster, a local or national emergency (declared by the appropriate government agency), or a military mobilization. The lender may grant the administrative forbearance for a 3-month period and must document in the borrower's loan file the reason for the forbearance. To grant an extension of the administrative forbearance for the same situation, the lender must document an agreement with the borrower or endorser and obtain documentation supporting the borrower's reason for extending the forbearance period.

Affected Sections: 7.11.B
Effective Date: Administrative forbearance granted by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.211(f)(11).
Policy Information: 657/Batch 102
Guarantor Comments: None.

Forbearance Contact

New federal regulations eliminate the 3-month forbearance contact requirement and replace it with new forbearance contact provisions. If the lender grants a forbearance that involves postponing all payments on the loan, the lender must contact the borrower or endorser at least once every 6 months during the forbearance period. The lender must inform the borrower or endorser of all the following information in each such contact:

- The obligation to repay the loan.
- The outstanding balance of principal and interest on the loan.
- That interest will accrue on the loan for the entire forbearance period.
- That the borrower or endorser may opt to discontinue the forbearance at any time.

This notification requirement does not apply for postponement of interest payments during a deferment period, a period of forbearance for an internship or residency, or a period of mandatory administrative forbearance.

Affected Sections: 7.11.G
Effective Date: Borrower requests processed by the lender on or after July 1, 2003, unless implemented earlier by the lender. Lenders may implement these provisions no earlier than November 1, 2002.
Basis: §682.211(e).
Policy Information: 658/Batch 102
Guarantor Comments: None.

Post-Withdrawal Disbursement and PLUS Loans

The *Common Manual* has been revised to clarify that if the student is eligible for a post-withdrawal disbursement, it must be offered to the student or, in the case of a PLUS loan, the parent, within 30 days of the date of determination of the student's withdrawal.

Affected Sections: 4.6
Effective Date: Post-withdrawal disbursements made by the school on or after October 7, 2000, unless implemented earlier by the school. Schools may implement these provisions no earlier than July 1, 2000.
Basis: §668.22(a)(4)(ii)(A); §668.164(g).
Policy Information: 659/Batch 102
Guarantor Comments: None.

Correction to Bankruptcy Information

Subsection 5.2.F has been corrected to be consistent with information in section 5.4 regarding the impact of a bankruptcy filing on the PLUS applicant's credit. Section 5.4 has been revised to more clearly state that loans discharged in bankruptcy must be considered adverse credit for purposes of determining a PLUS borrower's creditworthiness. However, the lender may not deny a PLUS loan solely on the basis of any previous or pending bankruptcy filing.

Affected Sections: 5.2.F, 5.4
Effective Date: May 21, 2001.
Basis: *Taylor v. United States of America, Department of Education* (appeal); §682.201(b)(1)(vii).
Policy Information: 660/Batch 102
Guarantor Comments: None.

New Borrower Deferment Eligibility Updates

The *Common Manual* has been revised to clarify borrower eligibility for certain deferments. Based on the revised and updated deferment forms recently published by the Department, "new borrower" definitions throughout the manual have been updated to coincide with the new, more inclusive deferment form text. The two general categories of "new borrowers" are defined as follows:

A "new borrower" from July 1, 1987 to June 30, 1993, is defined as a borrower whose first FFELP loan was made on or after July 1, 1987, and before July 1, 1993, or who had an outstanding balance on a loan obtained on or after July 1, 1987, and before July 1, 1993, when he or she obtained a loan after July 1, 1993; or a borrower who had no outstanding balance on a Federal Consolidation loan that was made before July 1, 1993, that repaid a loan first disbursed before July 1, 1987.

A "new borrower" on or after July 1, 1993, is defined as a borrower whose outstanding FFELP loans were all made on or after July 1, 1993, and when his or her first FFELP loan was made on or after July 1, 1993, had no outstanding FFELP loans that were made before July 1, 1993.

Affected Sections: 7.9.A, 7.10.A, 7.10.F, 7.10.G, 7.10.H, 7.10.I, 7.10.J, 7.10.K, 7.10.L, 7.10.M, 7.10.N, 7.10.O, 7.10.P, 7.10.Q
Effective Date: Retroactive to the implementation of the *Common Manual*.
Basis: §682.210(b)(7); §682.210(s)(1); Dear Colleague Letter (DCL) GEN 02-08, published October 2002. Additional clarification is provided in the newly approved deferment forms from the Department of Education.
Policy Information: 661/Batch 102
Guarantor Comments: N